

Baltimore County

**a. Child Counsel
Appointment Policies
and Procedures**

**b. Order Appointing
Counsel for Child**

Circuit Court for Baltimore County

Child Counsel Appointment Policies & Procedures

The following policies and procedures have been adopted by the Circuit Court for Baltimore County in order to be in full compliance with Md. Rule 9-205.1, Appointment of Child Counsel and the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, as well as to ensure that the child counsel appointments are made appropriately and on an equitable basis.

I. Roster of Court-Approved Child Counsel

The Court will keep a Roster of Court-Approved Child Counsel for appointment in domestic cases through a shared file maintained by the Family Law Administrator.

A. Attorney Qualifications. In compliance with the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, §§ 4 and 5, the Court requires that attorneys on the Court-Approved Roster meet the following criteria:

1. Successfully complete the specific **six-hours of training** for being a Child's Best Interest Attorney, Child's Advocate Attorney and/or Child's Privilege Attorney, as set forth in Guideline 4;
2. Have at least three (3) years of family law experience or other relevant experience¹;
3. Maintain professional liability insurance, at the Attorney's sole cost and expense; and
4. Willing to take at least one (1) *pro bono* appointment as child counsel per year.

B. Judicial Review Committee. A three-judge Review Committee, appointed by the Administrative Judge, will be established to ensure that new attorneys added to the Roster of Court-Approved Child Counsel meet the criteria listed above.

Attorneys wishing to be added to the Roster of Court-Approved Child Counsel shall submit a request, including a copy of their resume, to the Family Law Administrator. If necessary, the Family Law Administrator will contact the attorney to obtain supplemental information regarding qualifications (e.g., certificates regarding training or determining whether an attorney has malpractice insurance). The Family Law Administrator will send the request and resume to each judge on the Judicial Review Committee, who will review the applications to determine whether the attorney has the necessary qualifications. The names of

¹ In evaluating "relevant experience," the court may consider the attorney's experience in social work, education, child development, mental health, healthcare, or related fields. (See Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, § 5 (b))

attorneys who meet the qualifications criteria will then be circulated to all judges on the Circuit Court Bench to see if any judge has any objection to an attorney being on the Roster. The Judicial Review Committee will review that additional input and determine whether the attorney should be added to the Roster.

This Committee will also review attorneys already on the Court's list of Child Counsel Attorneys to ensure whether they wish to remain on the list and whether they comply with the qualifications criteria.

- C. Periodic Announcement to the Bar.** After the current list has been reviewed and approved, the Court will place an article in the Advocate and send an e-mail through the Bar Association's Family Law ListServ to inform attorneys of the qualifications criteria for the Roster of Court-Approved Child Counsel, the application process to be added to the Roster and how Motions for Child Counsel will be processed (See below for the Motion Review and Approval Process).
- D. Motion Review and Approval Process.** The following process will be used to review and approve Motions for Appointment of Child Counsel in domestic cases:
- a. All Motions for the appointment of a child counsel in a domestic case shall be referred by the Clerk's Office to a designated Judge for review.
 - b. The two designated Judges will review all Motions for Appointment of Child Counsel for approval.
 - c. If the designated Judge grants the Motion, he/she will make an appointment from the court-approved Roster of Child Counsel Attorneys for each case, unless the parties and their attorneys agree to appointment of an attorney who is not on the Court's Roster. The Judge will attempt to provide attorneys on the Roster with an equitable share of appointments, while also attempting to ensure that more experienced attorneys are utilized in the more difficult and complex cases. The Judge will also use the standard order in all cases.
 - d. After making a ruling, the Family Division Judge will send the file and order to the Family Law Administrator, who will maintain a record of the appointments from the Court's Roster.

II. Court Funded Child Counsel

- A. Appointment of Child Counsel for Indigent Parents.** Periodically, the Court may assume the costs of child counsel on a limited basis when either one or both parties are indigent. Under those circumstances, the Court may pay \$100/ hour, up to a cap of \$1,500, for the fees and/or expenses of a Best Interest Attorney who is appointed to represent a child(ren) in custody cases. Additionally, for a Children's Privilege Attorney appointed in accordance with *Nagle v. Hooks*, 296 Md. 123 (1983), the Court may pay \$100/ hour or up to a cap of \$500 for the fees and/or

expenses. In order to qualify for payment by the Court, one or both parties must be either representing themselves (Pro Se) or represented by a pro bono or a reduced fee attorney.

B. Affidavit of Indigency. In order for the Court to consider contributing toward the costs of child counsel, an Affidavit of Indigency must be attached to a Motion for Appointment of Counsel for a Child. This should state: the amount of money in the parent(s) checking and savings accounts, whether the parents are employed, their occupation and the amount of their income. It should also state whether there is any other source of income including but not limited to rentals, disability income or any other source of revenues. Finally, the statement must also provide information concerning ownership of real or personal property (such as a home, automobile or other motor vehicle.)

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

Plaintiff

v.

Defendant

* * * * *

Case No.:

ORDER APPOINTING COUNSEL FOR CHILD

This matter having come before the Court, it is this day _____ of, 20____, by the Circuit Court for Baltimore County, Maryland

ORDERED, that _____, telephone number _____, is hereby appointed as a **Best Interest Attorney** in accordance with the Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases. A Best Interest Attorney is a court-appointed lawyer who provides independent legal services for the purpose of protecting a child's best interests, without being bound by the child's directives or objectives, or

ORDERED, that _____, telephone number _____, is hereby appointed as a **Child Advocate** pursuant to the Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases. A Child Advocate is a court-appointed lawyer who provides independent legal counsel for a child and who owes the same duties of undivided loyalty, confidentiality, and competent representation as is due an adult client, and/or

ORDERED, that _____, telephone number _____, is hereby appointed as a **Children's Privilege Attorney** pursuant to the Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases. A Children's Privilege Attorney is a lawyer appointed in accordance with *Nagle v. Hooks*, 296 Md. 123 (1983), to decide whether to assert or waive, on behalf of a minor child in a custody action, any statutory privilege. It is further

ORDERED, that the parties, counsel for the parties and all persons who are custodians of records pertinent to this Order, and all persons who otherwise have privileged or confidential information pertaining to the children shall fully cooperate with the attorney appointed herein in the performance of the duties instructed by this Court. It is further

ORDERED, that the attorney appointed herein shall have reasonable access to the child(ren) and to all otherwise privileged or confidential information, including but not limited to any protected health information, about the child(ren), without the necessity of any further Order of Court or without the necessity of a subpoena, but upon written request by the appointed attorney together with a copy of this Order. The appointed

attorney's access to privileged and confidential information shall be without the necessity of a signed release, including medical, dental, psychiatric/psychological, social services, drug and alcohol treatment, law enforcement and educational records and information. It is further

ORDERED, that the attorney appointed herein shall be compensated as indicated:

- The attorney shall be compensated at the rate of \$ _____ per hour. *(Please note that the Court has set a standard rate of \$200 per hour for Child Counsel Appointments, but parties may agree on a different amount, or the Court may set a different amount, if appropriate),*
- Having met the criteria as a Court Funded Appointment, the attorney shall be compensated by the Court at the rate of \$100 per hour up to \$1,500 for fees and or expenses as a Best Interest Attorney (or alternatively \$500 for the fees and or expenses as a Child's Privilege Attorney) and that at the conclusion of the case, an invoice for complete professional services should be submitted to the Court Administrator's Office, Room 421, County Courts Building, Towson Maryland 21204.
- Payment into attorney's trust account.** Plaintiff is hereby directed to pay the attorney appointed herein, for deposit into the attorney's trust account, the sum of \$ _____ within 10 days of the date of this Order as an initial contribution towards the attorney's fees in performance of the services identified herein. The attorney is authorized to draw from the trust account as the fee is earned, upon submission of an itemized monthly statement to the court, counsel, and any unrepresented party.
- Payment into attorney's trust account.** Defendant is hereby directed to pay the attorney appointed herein, for deposit into the attorney's trust account, the sum of \$ _____ within 10 days of the date of this Order as an initial contribution towards the attorney's fees in performance of the services identified herein. The attorney is authorized to draw from the trust account as the fee is earned, upon submission of an itemized monthly statement to the court, counsel, and any unrepresented party.
- The attorney appointed herewith shall not be required to begin work representing the child(ren) until payment is made by the parties into the attorney's trust account, as indicated above.
- Final allocation of fees shall be determined by the Court at a hearing on the merits of this case or upon the Petition of the attorney appointed herein. The Court may hold the parties jointly and severally liable for all fees due to the appointed attorney, subject to the parties' rights to seek indemnification from each other to the extent that either party pays the attorney more than his/her allocated share.
- The attorney appointed herein shall submit a bill for services to the Court at the conclusion of the case, or upon earlier motion. The attorney may also submit a motion for interim fees for services rendered and expenses advanced, and for anticipated services or expenses that need to be incurred, which the court shall

order to be paid by a date certain; provided that the Court is satisfied as to the necessity of services rendered and expenses incurred by the attorney, and the need for additional services and expenses to be incurred. If opposition is filed to the request, a hearing may be scheduled at the discretion of the Court.

- The attorney appointed herein shall provide representation on a pro-bono basis.
- Absent further Order of this Court, the attorney appointed herein shall not be required to participate in any appeal in this matter.
- Either party's failure to make payment in accordance with this Order, in addition to any other consequences, including a finding of contempt of Court, shall be cause for the court appointed counsel to request withdrawal of his/her representation, upon written notification to the Court. It is further

ORDERED, that although the minor child(ren) are not parties to this action, the attorney appointed herein shall be entitled to engage in discovery as part of the performance of the duties assigned herein, and to file motions or seek an order as appropriate in the fulfillment of the duties appointed herein. It is further

ORDERED, that within ten (10) days of the date of this Order, counsel for the party moving for the appointment of child counsel or the party shall provide to the attorney appointed herein copies of all pleadings and papers filed in the above action and any correspondence between the parties or counsel for the parties. Also, each party, or their counsel, shall provide to the appointed attorney, within ten (10) days of the date of this Order, copies of any of the following reports pertaining to the minor child(ren) which are in the possession, custody or control of the party: medical records, school records, reports and/or evaluations pertaining to the physical, mental or emotional condition of any child, learning assessments of any kind, police reports, and reports from the Department of Social Services pertaining to any abuse (including abuse in which the child(ren) were not involved). It is further

ORDERED, that within ten (10) days of the date of this Order, each party shall provide the attorney appointed herein the names and known addresses and telephone numbers of any and all mental health providers who have evaluated or treated the child(ren) and anyone else with whom the child(ren) may have a privilege pursuant to the Statute. It is further

ORDERED, that the attorney appointed herein shall not have any ex parte communications with the Court. In addition, the attorney/client privilege shall be respected at all times. As such, the attorney appointed herein may not speak to the parties without the prior permission of their respective attorneys, and the attorneys for the parties may not speak with the child(ren) without the prior permission of the attorney appointed herein.

Judge